

## Regular, Reliable Attendance Can Be An Essential Function, Connecticut Appellate Court Holds

Article By:

Alison Jacobs Wice

Sally Welch St. Onge

---

A recent Connecticut Appellate Court case provides helpful reminders that:

- regular, reliable attendance can be an essential function of many jobs; and
- eliminating an essential job function is not a reasonable accommodation.

Plaintiff in *Barbabosa v. Board of Education of the Town of Manchester* was a full-time, one-on-one paraprofessional for schoolchildren. The trial court held as a matter of law that regular attendance was an essential function of that job, which required direct interaction with students. While Plaintiff's performance reviews confirmed that she met expectations when she was present at work, 10 of her 13 performance reviews noted that her tardiness and excessive absenteeism interfered with her performance. Plaintiff was not eligible for leave under the Family and Medical Leave Act, but was granted a leave of absence coextensive with her banked sick time. Plaintiff then requested intermittent leave prospectively.

In its decision issued April 23, 2019, the Connecticut Appellate Court affirmed summary judgment in favor of the employer, finding that regular attendance was an essential job function; and, where Plaintiff's requests for intermittent extended leave would eliminate that essential function, such leave was not a reasonable accommodation as a matter of law. The Court explained:

we fail to see how it is possible to perform the essential function of attending work through an accommodation that provides for even more absences from work . . . the plaintiff's request to permit her to take intermittent leave, above and beyond that for which she was eligible or already approved, would only exacerbate her existing attendance issues and would further undermine her ability to perform an essential function of her employment, namely, maintaining regular attendance. It is, thus, not a reasonable accommodation.

While this decision is helpful to employers attempting to manage employee absences, keep in mind:

- Each employee's request for an accommodation should be handled through an individualized, interactive process in light of the particular circumstances.
  - A continuous leave of absence or leave extension may constitute a reasonable accommodation depending on the circumstances.
- Employers should be prepared to demonstrate that regular and reliable attendance is an essential function of a position.
  - For example, in the *Barbabosa* case, the Court noted the employer's repeated documentation of the negative impact that Plaintiff's absences had on the students she supported.
- State or federal FMLA may protect intermittent absences for eligible employees with a serious health condition, irrespective of whether leave would be a reasonable accommodation.
  - In *Barbabosa*, the plaintiff was ineligible for FMLA and the employer considered whether leave was a reasonable accommodation after Plaintiff exhausted time-off to which she was entitled under the employer's policies.

---

Jackson Lewis P.C. © 2025

National Law Review, Volume IX, Number 135

Source URL: <https://natlawreview.com/article/regular-reliable-attendance-can-be-essential-function-connecticut-appellate-court>